

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12599 of 2006

ORDER :

This writ petition is filed seeking to issue a Writ of Certiorari by calling for the records related to and connected with the order dated 03.09.2005 in WCMP.No.4 of 2005 in WC.No.36 of 2005 passed by the 1st respondent – Commissioner of Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar, and quash the same by holding it as illegal, arbitrary and contrary to the Workmen's Compensation Act, 1923 (for brevity "the Act").

Heard Sri A. Ravi Babu, learned Standing Counsel for the petitioner - Corporation and the learned Government Pleader for Labour appearing for the 1st respondent Commissioner.

It has been contended by the learned Standing Counsel for the petitioner-Corporation that the 2nd respondent Workman was appointed as a Driver in the petitioner Corporation and while he was discharging his duties as Driver, the 2nd respondent had indulged in a fatal accident on 22.08.1995 and in the said accident, the 2nd respondent Workman had also suffered severe injuries and the case of the 2nd respondent Workman was considered for alternative employment as he was found unfit for the post of Driver.

The learned Standing Counsel for the petitioner-Corporation further contended that a criminal case in Crime No.118 of 1995 was also initiated against the 2nd respondent Workman for rash and negligent driving and he was tried by the Court of Judicial Magistrate of First Class, Huzurabad, wherein he was initially convicted for the rash and negligent driving. Thereafter, the 2nd respondent Workman had preferred a criminal appeal before the II Additional Sessions Judge, wherein he was acquitted of the criminal charge vide judgment dated 24.07.2003. Subsequently, the 2nd respondent Workman had issued a legal notice dated 31.12.2004 seeking compensation under the Act with a delay of more than 7 ½ years and the 1st respondent Commissioner had erroneously condoned the said delay vide order dated 03.09.2005 in WCMP.No.4 of 2005 in WC.No.36 of 2005, which is contrary to the law and also the provisions of the Act. Challenging the same, the present writ petition is filed.

The learned Standing Counsel for the petitioner-Corporation further contends that the 1st respondent ought not to have condoned the delay of more than 7 ½ years in favour of the 2nd respondent Workman and he has no authority to condone the said delay and hence appropriate orders be passed in the writ petition by setting aside the order dated 03.09.2005 in WCMP.No.4 of 2005 in WC.No.36 of 2005 passed by the 1st respondent.

This Court, having considered the above said submissions, is of the considered view that the 1st respondent has rightly passed orders in favour of the 2nd respondent Workman. The 2nd respondent Workman was acquitted of the criminal charge only on 24.07.2003 and thereafter, the 2nd respondent Workman had made a claim for workmen compensation under the Act and the 2nd respondent Workman had undergone treatment upto 08.02.1997 for the injuries sustained by him in the accident that occurred on 22.08.1995 and thereafter he was initially convicted by the competent Criminal Court and on appeal, the learned Sessions Court was pleased to acquit him of the said criminal charge only on 24.07.2003 and hence the 1st respondent has rightly condoned the delay of more than 7 ½ years in favour of the 2nd respondent Workman.

It has been further brought to the notice of this Court that the 2nd respondent Workman has already retired from service on attaining the age of superannuation on 30.11.2012 and since the 2nd respondent Workman had already retired from service, it would be appropriate to direct the 1st respondent to entertain the claim made by the 2nd respondent Workman for compensation and pass appropriate orders in accordance with law in WC.No.36 of 2005 within a reasonable period of six (6) weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

28.01.2019.
Msr

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